

By: Frank

H.B. No. 3316

A BILL TO BE ENTITLED

AN ACT

relating to certain suits affecting the parent-child relationship.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 161.001(b), Family Code, is amended to read as follows:

(b) The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1) that the parent has:

(A) voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;

(B) voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without providing for the adequate support of the child, and remained away for a period of at least three months;

(C) voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;

(D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;

(E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child;

1 (F) failed to support the child in accordance  
2 with the parent's ability during a period of one year ending within  
3 six months of the date of the filing of the petition;

4 (G) abandoned the child without identifying the  
5 child or furnishing means of identification, and the child's  
6 identity cannot be ascertained by the exercise of reasonable  
7 diligence;

8 (H) voluntarily, and with knowledge of the  
9 pregnancy, abandoned the mother of the child beginning at a time  
10 during her pregnancy with the child and continuing through the  
11 birth, failed to provide adequate support or medical care for the  
12 mother during the period of abandonment before the birth of the  
13 child, and remained apart from the child or failed to support the  
14 child since the birth;

15 (I) contumaciously refused to submit to a  
16 reasonable and lawful order of a court under Subchapter D, Chapter  
17 261;

18 (J) been the major cause of [~~+~~  
19 ~~[(i) the failure of the child to be enrolled~~  
20 ~~in school as required by the Education Code, or~~  
21 ~~[(ii)]~~ the child's absence from the child's  
22 home without the consent of the parents or guardian for a  
23 substantial length of time or without the intent to return;

24 (K) executed before or after the suit is filed an  
25 unrevoked or irrevocable affidavit of relinquishment of parental  
26 rights as provided by this chapter;

27 (L) been convicted or has been placed on

1 community supervision, including deferred adjudication community  
2 supervision, for being criminally responsible for the death or  
3 serious injury of a child under the following sections of the Penal  
4 Code, or under a law of another jurisdiction that contains elements  
5 that are substantially similar to the elements of an offense under  
6 one of the following Penal Code sections, or adjudicated under  
7 Title 3 for conduct that caused the death or serious injury of a  
8 child and that would constitute a violation of one of the following  
9 Penal Code sections:

- 10 (i) Section 19.02 (murder);
- 11 (ii) Section 19.03 (capital murder);
- 12 (iii) Section 19.04 (manslaughter);
- 13 (iv) Section 21.11 (indecent with a  
14 child);
- 15 (v) Section 22.01 (assault);
- 16 (vi) Section 22.011 (sexual assault);
- 17 (vii) Section 22.02 (aggravated assault);
- 18 (viii) Section 22.021 (aggravated sexual  
19 assault);
- 20 (ix) Section 22.04 (injury to a child,  
21 elderly individual, or disabled individual);
- 22 (x) Section 22.041 (abandoning or  
23 endangering child);
- 24 (xi) Section 25.02 (prohibited sexual  
25 conduct);
- 26 (xii) Section 43.25 (sexual performance by  
27 a child);

1 (xiii) Section 43.26 (possession or  
2 promotion of child pornography);

3 (xiv) Section 21.02 (continuous sexual  
4 abuse of young child or children);

5 (xv) Section 20A.02(a)(7) or (8)  
6 (trafficking of persons); and

7 (xvi) Section 43.05(a)(2) (compelling  
8 prostitution);

9 (M) had his or her parent-child relationship  
10 terminated with respect to another child based on a finding that the  
11 parent's conduct was in violation of Paragraph (D) or (E) or  
12 substantially equivalent provisions of the law of another state;

13 (N) constructively abandoned the child who has  
14 been in the permanent or temporary managing conservatorship of the  
15 Department of Family and Protective Services for not less than six  
16 months, and:

17 (i) the department has made reasonable  
18 efforts to return the child to the parent;

19 (ii) the parent has not regularly visited  
20 or maintained significant contact with the child; and

21 (iii) the parent has demonstrated an  
22 inability to provide the child with a safe environment;

23 (O) failed to comply with the provisions of a  
24 court order that specifically established the actions necessary for  
25 the parent to obtain the return of the child who has been in the  
26 permanent or temporary managing conservatorship of the Department  
27 of Family and Protective Services for not less than nine months as a

1 result of the child's removal from the parent under Chapter 262 for  
2 the abuse or neglect of the child;

3 (P) used a controlled substance, as defined by  
4 Chapter 481, Health and Safety Code, in a manner that endangered the  
5 health or safety of the child, and:

6 (i) failed to complete a court-ordered  
7 substance abuse treatment program; or

8 (ii) after completion of a court-ordered  
9 substance abuse treatment program, continued to abuse a controlled  
10 substance;

11 (Q) knowingly engaged in criminal conduct that  
12 has resulted in the parent's:

13 (i) conviction of an offense; and

14 (ii) confinement or imprisonment and  
15 inability to care for the child for not less than two years from the  
16 date of filing the petition;

17 (R) been the cause of the child being born  
18 addicted to alcohol or a controlled substance, other than a  
19 controlled substance legally obtained by prescription;

20 (S) voluntarily delivered the child to a  
21 designated emergency infant care provider under Section 262.302  
22 without expressing an intent to return for the child; or

23 (T) been convicted of:

24 (i) the murder of the other parent of the  
25 child under Section 19.02 or 19.03, Penal Code, or under a law of  
26 another state, federal law, the law of a foreign country, or the  
27 Uniform Code of Military Justice that contains elements that are

1 substantially similar to the elements of an offense under Section  
2 19.02 or 19.03, Penal Code;

3 (ii) criminal attempt under Section 15.01,  
4 Penal Code, or under a law of another state, federal law, the law of  
5 a foreign country, or the Uniform Code of Military Justice that  
6 contains elements that are substantially similar to the elements of  
7 an offense under Section 15.01, Penal Code, to commit the offense  
8 described by Subparagraph (i); or

9 (iii) criminal solicitation under Section  
10 15.03, Penal Code, or under a law of another state, federal law, the  
11 law of a foreign country, or the Uniform Code of Military Justice  
12 that contains elements that are substantially similar to the  
13 elements of an offense under Section 15.03, Penal Code, of the  
14 offense described by Subparagraph (i); and

15 (2) that termination is in the best interest of the  
16 child.

17 SECTION 2. Subchapter B, Chapter 161, Family Code, is  
18 amended by adding Section 161.1011 to read as follows:

19 Sec. 161.1011. FILING REQUIREMENT FOR PETITION RELATING TO  
20 MORE THAN ONE CHILD. (a) Before filing a petition for the  
21 termination of the parent-child relationship relating to more than  
22 one child, the Department of Family and Protective Services must  
23 determine whether any court has continuing, exclusive jurisdiction  
24 of a child named in the petition. If a court is determined to have  
25 continuing, exclusive jurisdiction of a child named in the  
26 petition, the department shall file the petition in that court.

27 (b) If more than one court has continuing, exclusive

1 jurisdiction of a child named in the petition, the department shall  
2 file the petition in the court that has most recently exercised  
3 continuing, exclusive jurisdiction of a child named in the  
4 petition.

5 SECTION 3. Section 161.206, Family Code, is amended by  
6 adding Subsection (a-1) to read as follows:

7 (a-1) In a suit filed by the Department of Family and  
8 Protective Services seeking termination of the parent-child  
9 relationship for both parents of the child, the court may order  
10 termination of the parent-child relationship for both parents only  
11 if the court finds by clear and convincing evidence grounds for the  
12 termination of the parent-child relationship for each parent. An  
13 order rendered under this subsection must state the grounds for  
14 terminating the parent-child relationship for each parent.

15 SECTION 4. Section 263.401, Family Code, is amended to read  
16 as follows:

17 Sec. 263.401. DISMISSAL AFTER ONE YEAR; NEW TRIALS;  
18 EXTENSION. (a) Unless the court has commenced the trial on the  
19 merits or granted an extension under Subsection (b) or (b-1), on the  
20 first Monday after the first anniversary of the date the court  
21 rendered a temporary order appointing the department as temporary  
22 managing conservator, the court's jurisdiction over [~~court shall~~  
23 ~~dismiss~~] the suit affecting the parent-child relationship filed by  
24 the department that requests termination of the parent-child  
25 relationship or requests that the department be named conservator  
26 of the child is terminated and the suit is automatically dismissed  
27 without a court order.

1           (b) Unless the court has commenced the trial on the merits,  
2 the court may not retain the suit on the court's docket after the  
3 time described by Subsection (a) unless the court finds that  
4 extraordinary circumstances necessitate the child remaining in the  
5 temporary managing conservatorship of the department and that  
6 continuing the appointment of the department as temporary managing  
7 conservator is in the best interest of the child. If the court  
8 makes those findings, the court may retain the suit on the court's  
9 docket for a period not to exceed 180 days after the time described  
10 by Subsection (a). If the court retains the suit on the court's  
11 docket, the court shall render an order in which the court:

12           (1) schedules the new date on which the suit will be  
13 automatically dismissed if the trial on the merits has not  
14 commenced, which date must be not later than the 180th day after the  
15 time described by Subsection (a);

16           (2) makes further temporary orders for the safety and  
17 welfare of the child as necessary to avoid further delay in  
18 resolving the suit; and

19           (3) sets the trial on the merits on a date not later  
20 than the date specified under Subdivision (1).

21           (b-1) If, after commencement of the initial trial on the  
22 merits within the time required by Subsection (a) or (b), the court  
23 grants a motion for a new trial or mistrial, or the case is remanded  
24 to the court by an appellate court following an appeal of the  
25 court's final order, the court shall retain the suit on the court's  
26 docket and render an order in which the court:

27           (1) schedules a new date on which the suit will be

1 automatically dismissed if the new trial has not commenced, which  
2 must be a date not later than the 180th day after the date on which:

3 (A) the motion for a new trial or mistrial is  
4 granted; or

5 (B) the appellate court remanded the case;

6 (2) makes further temporary orders for the safety and  
7 welfare of the child as necessary to avoid further delay in  
8 resolving the suit; and

9 (3) sets the new trial on the merits for a date not  
10 later than the date specified under Subdivision (1).

11 (c) If the court grants an extension under Subsection (b) or  
12 (b-1) but does not commence the trial on the merits before the  
13 dismissal date, the court's jurisdiction over ~~[court shall dismiss]~~  
14 the suit is terminated and the suit is automatically dismissed  
15 without a court order. The court may not grant an additional  
16 extension that extends the suit beyond the required date for  
17 dismissal under Subsection (b) or (b-1), as applicable.

18 SECTION 5. The changes in law made by this Act apply only to  
19 a suit affecting the parent-child relationship pending in a trial  
20 court on the effective date of this Act or filed on or after the  
21 effective date of this Act. A suit affecting the parent-child  
22 relationship in which a final order is rendered before the  
23 effective date of this Act is governed by the law in effect on the  
24 date the order was rendered, and the former law is continued in  
25 effect for that purpose.

26 SECTION 6. This Act takes effect September 1, 2017.